

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

STATE OF NORTH DAKOTA EX REL.  
WAYNE STENEHJEM,  
ATTORNEY GENERAL,

Petitioner,

-vs-

RESORT TOURS  
& ACCOMMODATIONS, INC.

Respondent.

Civil No. 0702353

**ORDER OF APPROVAL**

CPAT 070171.001

Pursuant to the authority of this Court provided in N.D.C.C. § 51-15-06.1,

IT IS HEREBY ORDERED that the attached Assurance of Voluntary Compliance  
is approved as an assurance of discontinuance as specified in N.D.C.C. § 51-15-06.1.

The Clerk of Court shall receive and file this Assurance of Voluntary Compliance.

Dated this 25<sup>th</sup> day of October, 2007.

BY THE COURT:

1st Bunny Staff  
Judge of the District Court

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Clk. of Crt. Burleigh Co.

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**ASSURANCE OF  
VOLUNTARY COMPLIANCE**

CPAT 070171.001 v2

To each person or entity identified below, hereinafter "Respondent":

Resort Tours & Accommodations, Inc.  
aka RTA Travel  
Attn: Mark A. Ernst  
13360 West Colonial Drive, #430  
Winter Garden, FL 34787  
myrtavactions.com  
800-206-5703

WHEREAS Wayne Stenehjem, Attorney General of the State of North Dakota (hereinafter "Attorney General"), acts in the public interest pursuant to North Dakota Century Code ("N.D.C.C.") chs. 51-15 (commonly referred to as the Consumer Fraud Statute), 51-18 (commonly referred to as the Home Solicitation Statute), and 53-11 (commonly referred to as the Contest Prize Notice Statute); and

WHEREAS Respondent is engaged in the business of soliciting and selling merchandise, as those terms are defined in N.D.C.C. § 51-15-01, and consumer goods or services as that term is defined in § 51-18-01, in the State of North Dakota, namely

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soliciting and selling travel packages in conjunction with time share real estate sales;  
and

WHEREAS the Attorney General has determined that in the public interest an investigation should be conducted into the activity of Respondent to ascertain whether violations of chs. 51-15, 51-18 and/or 53-11 have occurred; and

WHEREAS N.D.C.C. ch. 51-15 prohibits the act, use, or employment by any person of any deceptive act or practice, fraud, false pretense, false promise, or misrepresentation, with the intent that others rely thereon in connection with the sale or advertisement of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby and further it is a deceptive act or practice in violation of that chapter for any person to provide assistance or support to any person engaged in any act or practice in violation of that chapter when the person providing assistance or support knows or consciously avoids knowing that the other person is engaged in an act or practice in violation of that chapter; and

WHEREAS N.D.C.C. ch. 51-18 regulates home solicitation sales and requires, among other things, that sellers provide North Dakota consumers with both oral and written cancellation rights; and

WHEREAS N.D.C.C. ch. 53-11 regulates, among other things, the required disclosures with respect to the awarding of prizes under North Dakota law; and

WHEREAS, the Attorney General has received one or more consumer complaints and/or other information indicating Respondent or its agents, among other things:



- failed to provide North Dakota consumers notices of cancellation as provided by North Dakota law;
- misrepresented to consumers that they had won a contest prize, when in fact Respondent was merely offering to sell a discounted travel package for purposes of inducing consumers to purchase time-share real estate;
- failed to make the required disclosures with respect to the award of a contest prize;

and

WHEREAS as a result of this investigation the Attorney General has reason to believe Respondent has violated N.D.C.C. chs. 51-15, 51-18 and 53-11; and

WHEREAS the parties desire to settle the alleged violations, without any finding or admission of liability on the part of Respondent;

NOW THEREFORE it is hereby agreed:

1. This Assurance of Voluntary Compliance shall constitute the statutory assurance of discontinuance as provided in N.D.C.C. § 51-15-06.1. Respondent acknowledges *in personam* jurisdiction in North Dakota. Nothing in this Assurance of Voluntary Compliance is intended to waive any rights or private remedies available to consumers. *See also* N.D.C.C. § 51-15-09.

2. Respondent, its directors, officers, principals, employees, agents, contractors, servants and all other persons in active concert or participation with it, whether directly or indirectly, agree to be and are permanently enjoined from engaging in violations of North Dakota law.

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3. If requested by the consumer, Respondent shall issue full refunds to all North Dakota consumers to whom Respondent has made sales, provided the consumers have not already completed the travel purchased. If such a request is made, Respondent will notify the Attorney General of the same and provide proof that the refund has occurred.

4. Respondent, upon execution of this agreement, will surrender to the Attorney General the originals (and all copies, compilations, summaries or the like), if any, of all North Dakota lead slips it has purchased, and will not use that information to contact or solicit any North Dakota consumers.

5. Respondent agrees it will comply with this Assurance of Voluntary Compliance and further acknowledges and agrees any violations of this Assurance of Voluntary Compliance shall be punishable as contempt of court pursuant to N.D.C.C. ch. 27-10. Further, Respondent may be subject to all other civil penalties and sanctions provided by law, including attorney fees and costs with respect to past violations of North Dakota law in addition to with respect to any new violations. Respondent agrees to pay a civil penalty of at least \$1,000 per violation for any violations of this Assurance of Voluntary Compliance, or any future violations of N.D.C.C. chs. 51-15, 51-18 or 53-11; provided, however, the Attorney General shall not be precluded from seeking more than \$1,000 per violation, or any other remedies provided in N.D.C.C. ch. 51-15 or other North Dakota law. Respondent agrees that in the event violation of this Assurance of Voluntary Compliance, the Attorney General may pursue all claims and complaints – past, present and future – against Respondent as well as retain any payments already made.

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If Respondent is adjudged in contempt of court for violations of this Assurance of Voluntary Compliance, adjudged in violation of this Assurance of Voluntary Compliance or adjudged in violation of N.D.C.C. chs. 51-15, 51-18 and/or 53-11, said Respondent shall also be responsible for payment to the Attorney General for reasonable investigation costs, expenses and attorney fees.

6. In the event of a breach of this Assurance of Voluntary Compliance, the Attorney General may, without further notice to Respondent, make application to a State of North Dakota District Court to have all amounts still owing under the Assurance of Voluntary Compliance entered as a formal judgment so it may be filed on the judgment roll and docketed pursuant to North Dakota law. See N.D.C.C. §§ 28-20-11, -12 and -13. Respondent agrees that an Affidavit of Non-Compliance of the Office of Attorney General shall be *prima facie* evidence of each violation of this Assurance of Voluntary Compliance.

7. Respondent represents the signer below is competent and fully authorized to act on behalf of Respondent. Respondent acknowledges it has been provided the opportunity to review this Assurance of Voluntary Compliance with an attorney, understands the implications and obligations imposed by it and has willingly and knowingly entered into this Assurance of Voluntary Compliance rather than contest the allegations on the merits. Respondent further acknowledges and agrees this Assurance of Voluntary Compliance may be approved by and filed with the State of North Dakota District Court without any further notice or hearing. Signatures transmitted electronically or via facsimile by Respondent shall be deemed the equivalent of original signatures;

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this document may be executed in counterparts, with each counterpart deemed an original.

**RESORT TOURS & ACCOMMODATIONS, INC.**

(including all "doing business as" names, formal corporate names, fictitious names of any kind or any variations of the same)

By: Mark A. Ernst

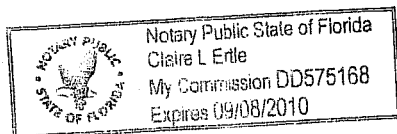
MARK A. ERNST  
(print name)

PRESIDENT  
(Title)

STATE OF Florida }  
COUNTY OF Orange } ss

Subscribed and sworn to before me this  
17th day of October, 2007. *He is personally to me.*

Claire L. Erte  
Notary Public *Claire L. Erte*



*M.E.*


This Assurance of Voluntary Compliance is hereby received and accepted.

Dated this 23<sup>rd</sup> day of October, 2007.

**STATE OF NORTH DAKOTA**

Wayne Stenehjem  
Attorney General

By: \_\_\_\_\_

  
James Patrick Thomas  
ID No. 06014  
Assistant Attorney General  
Consumer Protection and  
Antitrust Division  
Office of Attorney General  
4205 State Street  
PO Box 1054  
Bismarck, ND 58502-1054  
(701) 328-5570

Attorneys for Petitioner

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